

fendant without including all of them, the bill must be dismissed totally as to all. *Lingan v. Henderson*, 1 Bland, 236; *Barker v. Wyld*, 1 Vern. 140.

In the manner, and upon the principles on which this case has been presented to the Court, its nature and extent must be collected chiefly from the answers. It is perfectly clear, that the President, Directors and Company of the Franklin Bank of Baltimore, and William F. Anderson, had not, at any time, any connexion or concern with this case, further than as the mere supposed holders of the identical proceeds of the schooner *Beauty*, and her earnings. Considered as such, they were properly enough made parties so far as any benefit was expected to be derived from an injunction. But the injunction which was granted, having been dissolved, they are now detained here for no purpose; their answers conclusively shew, that the plaintiffs can have no relief whatever against them; and, therefore, as to them, the bill must be dismissed.

As to the other parties, it is quite evident, that it will be impracticable to reach the justice of the case without an account; indeed it is what all seek as the only means of obtaining that to which each deems himself entitled. All that has been said about the nature, value, and proceeds of the cargo of the schooner *Beauty*, must be laid aside as foreign to the matter in controversy between these parties. McKim and Odom were tenants in common of this vessel; and as such, each of them is entitled to one-half of the net proceeds of the sale which has been made of her, and also to one-half of her freight and earnings on her voyage from Baltimore until she was sold. The firm of Law & Harrison, and George Law, are entitled by their contract with the owners of *this schooner, and by the nature of their agency, to retain so much of the proceeds of this vessel and her earnings, 411 which have come to their hands, as will reimburse them for all disbursements and advances made by them, as well on account of her voyage to the West Indies as of that which she made to Montevideo.

The auditor, therefore, will so state the account as to shew the amount claimed for disbursements by the firm of Law & Harrison, and also by George Law. The amount of proceeds which came to the hands of Law & Harrison, of George Law, or of John Odom, if in fact any has been separately received by each, or any of them. The one-half of the net amount of the proceeds of this schooner and her earnings will be decreed to McKim, and the other half to Odom. Interest is to be estimated as usual on receipts and payments. The object of this account is to ascertain the exact amount to which McKim and Odom are, each of them entitled; and of whom they are to obtain payment.

Whereupon it is decreed, that as regards the President, Directors and Company of the Franklin Bank of Baltimore, and William